



Mary McCabe <mary.mccabe@wegmans.com >  
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To: John F. Morrall III/OMB/EOP@EOP  
cc:  
Subject: Nominations of Problem Regulations

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Wegmans Food Markets, Inc. is a privately-held corporation, operating food retail and home improvement stores in New York, Pennsylvania and New Jersey. Wegmans employs approximately 30,000 full and part-time people, and frequently encounters difficulties in complying with FMLA regulations. Because of this, Wegmans would like to nominate the following regulations and guidance documents (in order of priority to Wegmans) for revision by the DOL:

1. 29 C.F.R. Part 825.114 and DOL Opinion Letter FMLA-86 (12/12/96). Due to the DOL's interpretation of the FMLA, and DOL's stated position that FMLA covers certain minor ailments, Wegmans has been hampered in its ability to determine which employee requests are covered by FMLA and which are not. This has resulted in both aggravation to our employees as we attempt to determine whether a request is covered, but also our being forced to accept as FMLA leave many requests which we believe fall outside the scope of the FMLA. As a result, we ask that the regulation be revised to specifically exclude minor ailments from coverage under the FMLA, as intended by Congress.
2. 29 C.F.R. Parts 825.203, 825.302(f) and 825.303 and DOL Opinion Letter FMLA-101 (01/15/99). As the DOL currently interprets the FMLA requirement re: intermittent leave, it would be prohibitively expensive and time-consuming for Wegmans to track intermittent leave. In addition, b/c of the nature of the retail business, we often must schedule alternative staff to cover any employee's FMLA absence - no matter how small a period of time that the employee chooses to take. As the DOL currently interprets the FMLA, we are required to allow an employee to take 10 minute, or 30 minute, or 60 minute FMLA leave, but it is virtually impossible to schedule an alternative worker for a period of time that small. As a result, we ask that the regulations be revised to permit employers to require that employees take intermittent leave in a minimum of 4 hour increments.
3. 29 C.F.R. Parts 825.307 and 825.308. As currently promulgated, it is very difficult and expensive for Wegmans to verify or clarify an employee's FMLA certification. Because of the way that medical providers word their FMLA certifications, it is often impossible for us to determine that FMLA leave is warranted, or the extent of the FMLA leave requested. As a result, we request that these regulations be revised to allow an employer to seek simple clarification and/or verification of an FMLA certification directly from health care providers.